

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

DAVID Q. WEBB,

Plaintiff,

vs.

STATE OF SOUTH DAKOTA, in its official
capacity; PENNINGTON COUNTY
GOVERNMENT, in its official capacity;
JANINE M. KERN, in her individual and
official capacities; BRIAN MUELLER,
Pennington County Sheriff, in his individual and
official capacities; LARA ROETZEL,
Pennington County State Attorney, in her
individual and official capacities; TIMOTHY
RENSCH, in his individual capacity,

Defendants.

3:23-CV-03017-RAL

SUA SPONTE ORDER RULING THAT
PLAINTIFF MAY PROCEED IN FORMA
PAUPERIS ON APPEAL

Plaintiff David Q. Webb filed a pro se lawsuit under 42 U.S.C. § 1983. Doc. 1. Webb moved for leave to proceed in forma pauperis, which this Court granted. Doc. 4; Doc. 7 at 7. This Court screened Webb's complaint for dismissal under 28 U.S.C. § 1915(e)(2), and judgment was entered against Webb. Docs. 7, 8.

Webb filed a notice of appeal but did not provide a motion to proceed in forma pauperis on appeal. See Doc. 9. Under Federal Rule of Appellate Procedure 24(a)(3), “[a] party who was permitted to proceed in forma pauperis in the district-court action . . . may proceed on appeal in forma pauperis without further authorization” unless the appeal is not taken in good faith, the court “finds that the party is not otherwise entitled to proceed in forma pauperis[.]” or a statute provides otherwise. “[I]n forma pauperis status does not require a litigant to demonstrate absolute

destitution.” Lee v. McDonald’s Corp., 231 F.3d 456, 459 (8th Cir. 2000). But in forma pauperis status is a privilege, not a right. Williams v. McKenzie, 834 F.2d 152, 154 (8th Cir. 1987) (citation omitted).

It appears that Webb’s appeal is taken in good faith. Because this Court granted Webb leave to proceed in forma pauperis in the district-court action and nothing appears to have changed concerning his finances, he is granted leave to proceed in form pauperis on appeal.

Accordingly, it is

ORDERED that this Court sua sponte grants Webb leave to proceed in forma paupers on appeal.

DATED December 27th, 2023.

BY THE COURT:



ROBERTO A. LANGE
CHIEF JUDGE